## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NANNETTE F. BUCKNER,	)
Plaintiff,	)
v.	) JUDGMENT
JACOB J. LEW, Secretary, Department of the Treasury,	) No. 5:13-CV-199-FL
Defendants.	, )

## **Decision by Court.**

This action came before the Honorable Louise W. Flanagan, United States District Judge.

**IT IS ORDERED, ADJUDGED AND DECREED**, in accordance with the court's orders entered March 20, 2014 and September 30, 2015, and for the reasons set forth more specifically therein, that:

- (1) Defendants' motion to dismiss part of plaintiff's retaliation claim [DE # 9] pursuant to Federal Rule of Civil Procedure 12(b (1) is DENIED WITHOUT PREJUDICE. Defendants' motion to dismiss plaintiff's ADEA and retaliation claim against defendant Lew pursuant to Federal Rule of Civil Procedure 12(b)(6) is DENIED. All other claims against defendant Lew, with exception of plaintiff's ADEA and retaliation claim, and all claims against the remaining defendants, Mariam G. Harvey, Jacqueline A. Berrien, and Robert L. Hunt are DISMISSED under Federal Rule of Civil Procedure 12(b)(6). The court STRIKES plaintiff's demand for jury trial as to plaintiff's ADEA claim.
- (2) Plaintiff has not met her burden of establishing a prima facie case that defendant engaged in materially adverse behavior. Defendant Lew's motion for summary judgment [DE # 78] is GRANTED.

## This Judgment Filed and Entered on September 30, 2015, and Copies To:

Michael James (via CM/ECF Electronic Notice of Filing) Nannette F. Buckner (via U.S. Mail) 921 Plainfield Church Road, Siler City, NC 27344

This 30th day of September, 2015.

JULIE RICHARDS JOHNSTON, CLERK
/s/ Christa N. Baker

(By) Christa N. Baker, Deputy Clerk